



State of California
Fair Political Practices Commission

Bulletin

Vol. 24, No. 4

October 1998

New FPPC Phone System, Website Offer Better Assistance

Big changes that improve the level of service to people seeking answers to questions or other kinds of help are now operational at the FPPC. Starting this month, a new phone system, an expanded array of website services and more offerings through the FPPC fax-on-demand service will speed up and help meet the growing demand for Political Reform Act-related information.

New Phone System

In October, the Commission implemented the use of a new phone system that provides more options to better serve our customers. Our phone number continues to be **(916) 322-5660**. New features include the following:

- Telephone Advice

Most callers may now avoid leaving voice mail messages and playing telephone tag

with a consultant. During the hours of 9:00 a.m. to noon and from 1:30 to 4:30 p.m., callers may choose to hold for an available consultant. The holding time should not exceed 10 minutes. Callers may also choose to leave a message. That option may be more convenient when a caller does not need immediate assistance or knows that the consultant may need to do extensive research before providing advice.

- 24-hour Message Center

- If you leave your name and phone number and the nature of your call after regular business hours, you will receive a call back the next business day.
- A special prompt allows you to order forms, manuals and other materials anytime by leaving your name and address. The materials you requested will automatically be sent to you.

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Major Donors

In most cases, if an individual, business entity or corporation gives your committee \$5,000 or more, you must notify the contributor within two weeks of receiving the contribution(s) that the contributor may have filing obligations as a major donor.

Litigation Update

Proposition 208

The federal Court of Appeals has scheduled oral argument in the Proposition 208 case for December.

Circuit Court Judges Fernandez and Tashima ordered that the appeal be referred to the next available three judge panel on December 8, 9, or 10, 1998, in San Francisco.

Justice O'Scannlain dissented, stating that he believed the case should be decided as promptly as possible by the existing panel. He would have scheduled oral argument for October 22nd. "By referring this matter to another panel, we are unnecessarily postponing oral argument to a date which is nearly one full year from the date when the preliminary injunction was filed in this case," he wrote.

Snyder Case

In People v. Snyder, No. B11053, the Court of Appeal, Second Appellate District, reversed the conviction of Arthur Snyder of Los Angeles who pled guilty to misdemeanor violations of Section 84301, making contributions in a false name. According to the Court, Snyder was subject only to an administrative action by the FPPC and not a criminal prosecution for his alleged violations of the Act because he is a lobbyist.

The FPPC and the Department of Justice will urge that the California Supreme Court hear the matter.



**REMEMBER
TO VOTE ON
NOVEMBER 3**

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California Fair Political Practices Commission

James M. Hall, Chairman
William Deaver, Commissioner
James Porter, Commissioner
Kathleen Makel, Commissioner
Carol Scott, Commissioner

Commission Meetings

Meetings are regularly scheduled for the first Thursday of each month at 10:00 a.m. in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000.

- **Enforcement Calls**

Callers wishing to file enforcement complaints or speak with an enforcement representative may continue to call the Commission's toll-free hotline number during regular business hours:

1-800-561-1861

New www.fppc.ca.gov Open for Business

The FPPC website has a new look and a lot more user-friendly help, information and products for internet users.

The redesigned FPPC website offers an overview of the FPPC and its Commission, functions and how to contact either the Legal, Technical Assistance or Enforcement Divisions. People with questions can get immediate answers from a section that carries a wide array of most-asked questions.

People can find out how to file a complaint about a violation with the Enforcement Division. At the same time, they can read a list of matters which the FPPC does not handle — and are given internet links and other contact information for the agencies that do.

Visitors can now easily access current news, announcements and schedules of FPPC seminars and other Commission meetings, including related documents, letters and other materials. Users can also download and print most FPPC forms.

A library link gives access to current and past issues of the *Bulletin*, the entire Political Reform Act, PRA regulations and search features to seek past advice letters on specific topics, plus guides and fact sheets about campaign and lobbying disclosure, conflicts-of-interest and an interactive Statement of Economic Interests (Form 700).

The library also holds comprehensive information about gifts, honoraria and travel and restrictions on post-governmental employment, and past enforcement cases.

The site also features a “feedback” service for praise, criticism, suggestions or other kinds of messages to the Commission and its staff. The redesigned website replaces a site that was first opened in mid-1995 with limited offerings and fewer features.

Fax-on-Demand Expanded

The FPPC will continue to offer non-internet users its fax-on-demand service, which includes access to faxed forms, regulations, publications, meeting and seminar schedules, and the monthly Commission meeting agenda with most related documents.

The fax-on-demand index is updated periodically to include new and revised forms, manuals and regulations. When prompted by the automatic voice menu, you may order items by dialing the index numbers assigned. To obtain a current list of the available information, call 1-888-622-1151 and order index number 9200.

Your Feedback is Important

If you have suggestions or comments concerning the Commission's new phone system or if you would like to suggest information to be placed online or on the fax-on-demand service, please contact us at (916) 322-5660, by fax at (916) 322-0886, or through Feedback on the website: www.fppc.ca.gov.

1998 Legislation

The legislation summarized below was signed by the Governor.

AB 2179 (Thomson) - Requires state agencies to offer and state employees to take ethics training. (*Effective January 1, 1999*)

SB 1737 (McPherson) - Creates a Bipartisan Commission on the Political Reform Act. (*Effective January 1, 1999*)

SB 1753 (Schiff) - Requires candidates for the PERS governing board to file campaign statements. (*Effective January 1, 1999*)

SB 1764 (Karnette) - Requires the Secretary of State to place the state ballot pamphlet on the internet. (*Effective January 1, 1999*)



Governor Vetoes Papan's AB 1864— Signs SB 1737 (McPherson) to Create the Bipartisan PRA Commission

AB 1864, authored by Assemblymember Lou Papan, would have (1) raised the threshold dollar limits throughout the Act pursuant to the recommendations of the State Auditor; (2) repealed and reenacted an amended “aiding and abetting” provision; (3) extended the amount of time the Commission’s enforcement division could review a complaint before deciding to bring civil action against an individual suspected of violating the Act; and, (4) accomplished other technical changes to the Act’s reporting requirements.

Fearing that signing the bill might immunize from criminal prosecution the very class of aiders and abettors most culpable of criminal conduct, the Governor vetoed AB 1864. He called on the Legislature to spell out with clarity who is covered by the aiding and abetting provision of the law, for what type of conduct and what civil and/or criminal penalties apply.

The Governor has signed SB 1737, creating a 14 person Bipartisan Commission on the Political Reform Act of 1974, to investigate and assess the effect of the Political Reform Act. SB 1737 passed the Legislature with virtually no opposition. The bill is authored by Senator Bruce McPherson.

In its final form as amended on June 25, 1998, the Governor will appoint four members; the President pro Tem of the Senate, the Senate Minority Floor Leader, the Assembly Speaker and the Assembly Minority Floor Leader will each appoint a member; the FPPC will appoint two members (from among former chairs if possible); the Secretary of State will appoint two members (including a former lobbyist) and the Attorney General will appoint two members. Appointment criteria ensure a bipartisan makeup of the commission.

Current members and employees of the Legislature and registered lobbyists are ineligible for membership. No more than three members of the commission may be attorneys at law who devote more than ten percent of their professional practices to legislative, political campaign, or other politically related activities.

The first meeting is required to be held as soon as possible after January 1, 1999. The commission is charged with investigating and assessing the effect of the Act on core political speech protected by the First Amendment and on candidates for public office, campaign committees, voters, et al., including the effect upon communications made or received by elected and other public officials to and from members of the public and lobbyists.

The bill specifically provides that it is NOT the intent of the Legislature that the commission draft or propose additional campaign finance reform suggestions but rather focus on administrative, regulatory, procedural, and clarifying changes to the Political Reform Act.

The commission will report its findings to the Legislature on or before October 1, 1999.

Members receive \$100 for each day of attendance at a meeting of the commission.

Money Laundering Violations

September 3 Meeting

RV Merchant, Inc., was fined \$26,000 for laundering campaign contributions to the campaign of Keith E. Beier for Escondido City Council.

RV Merchant, Inc., is engaged in the sale of recreational vehicles in Escondido. Charles M. Fagan is the president of RV Merchant, Inc., and his wife, Lavon M. Fagan is an officer and director of RV Merchant. In October 1996, RV Merchant, Inc. reimbursed employees, their spouses, and friends of the Fagans for making 13 campaign contributions totaling \$3,250 to Beier's campaign. When the money laundering occurred, the City of Escondido had campaign contribution limits of \$250.

The Act prohibits making campaign contributions in the name of another person. Commonly known as "campaign money laundering," the illegal act deprives the public of the right to know the true source of contributions.

N & S, Inc., d.b.a. Jimmy's Family Restaurant (N & S) was fined \$5,400 for laundering campaign contributions to Santee City Council Candidate Jim Romine.

N & S operates a restaurant in Santee. In 1992, N & S was owned by Nick Pappas and his son-in-law, Michael Wynns. In 1993, N & S was sold to new owners. In October 1992, N & S reimbursed employees and a friend of Nick Pappas for making \$750 in campaign contributions to Romine. The City of Santee has an ordinance limiting contributions to \$250 per individual in an election. In addition, campaign contributions from corporations or businesses are prohibited. Therefore, N & S was prohibited from making any contributions to city council candidates.

October 1 Meeting

Ricki Hanyecz, Michael Hanyecz and Sima Katzir were fined \$94,000 for laundering campaign contributions. Rimi Security Systems, Inc. (RSS), installs and services burglar alarm systems and subcontracts to new home builders to install home security systems during the initial construction of homes. Most of the company's business includes new home development in Orange County, Los Angeles County and various cities in Northern California. Michael and Ricki Hanyecz are owners and corporate officers of RSS. Sima Katzir is Ricki Hanyecz's sister and business accountant for RSS.

During 1992 through 1996, the Hanyeczs and Katzir reimbursed mainly family members for making 47 campaign contributions totaling \$27,700. The laundered campaign contributions were made to Contra Costa County Supervisor candidates Jeff Smith, Susan Rainey, Donna Gerber and Maria Viramontes; State Senate, District 7, candidate Jeff Smith; San Jose candidates Kathy Cole, Patricia Martinez-Roach, Manuel Diaz and John Diquisto; Yorba Linda candidates Daniel T. Welch, Gene Wisner and John Gullixson; Laguna Niguel candidates Mark Goodman, Thomas W. Wilson and Patricia C. Bates; State Assembly candidates Tom Torlakson and Jim Beale; and the Committee for Improved Public Policy, a recipient committee.

Conflict of Interest Violations

August 6 Meeting

Dallas Covington, a Redondo Beach Harbor Commissioner, was fined \$2,000 for appearing before the Redondo Beach Harbor Commission (Commission) on behalf of his own client.

Covington, a self-employed general contractor, was appointed to the Commission in 1995. Quality Seafood, one of his clients,

Enforcement Actions

appeared before the Commission to gain approval of a conditional use permit. Covington excused himself and sat in the audience prior to the presentation made by a representative of Quality Seafood. However, during the course of the presentation, Covington arose from the audience and addressed the Commission concerning specifics of the proposed expansion of Quality Seafood.

The Act prohibits public officials from making, participating in making or in any way attempting to use their official positions to influence a governmental decision in which they know or have reason to know they have a financial interest.

September 3 Meeting

Tad Folendorf, Mayor of the City of Angels, was fined \$15,000 for voting and participating in several governmental decisions which had a reasonably foreseeable material financial effect on his interests in real property or on his sources of income.

Between March 1994 and June 1996, Folendorf had an ownership interest in 20 separate parcels of real property located within the City of Angels. Folendorf participated and voted on several decisions related to the creation of a redevelopment project area within the City of Angels during 1994 and 1995. During the time the redevelopment issue was before the city council, Folendorf owned real property within the proposed redevelopment project boundaries.

In March 1995, Folendorf sold five parcels of land to Greenhorn Creek Partners (GCP). In April 1995, Folendorf began receiving payments on the sale of his real property to GCP and Barden Stevenot. Between May 1995 and June 1996, Folendorf participated and voted on development of the "Greenhorn Creek" subdivision in the City of Angels.

Mark Mitton, Tuolumne County Administrator, was fined \$2,000 for participating in or using his official position to influence a matter concerning the donor of a gift of \$280 or more.

In late 1994, Mitton and other county officials began having informal meetings with developer Bill Beck regarding the possible formation of a communities facilities district for the public financing of "South Shores Golf Course." In March 1995, Mitton and Supervisors Ken Marks and William Holman traveled to Washington, D.C. on a lobbying trip for the county. Beck provided Mitton and the supervisors a side trip to Pinehurst, North Carolina, to visit a golf course. Mitton was provided travel, lodging, food and a round of golf with a total value of at least \$381 from South Shore Ranches. He also received \$281 in airfare from Beck and \$100 in lodging and meals from Robert Tressler, Beck's attorney. Beck reimbursed his attorney for the lodging and meals.

At the November 14, 1995, board of supervisors' meeting, Beck appeared before and recommended to the board of supervisors that they authorize county staff to structure a proposal for public financing of the South Shore project.

Barry Allen was fined \$5,000 for making, participating in or attempting to influence a governmental decision that involved his sources of income. Allen, Area Supervisor of Office Machine Repair Services for the State Department of General Services, signed purchase orders to obtain computer parts from Absolute Logic, a company owned by his personal acquaintances, Russell and Darlene Macy. During the time he signed the purchase orders, Allen had received more than \$250 in income from the Macys.

October 1 Meeting

Rudy Regalado was fined \$226,000 for various conflict of interest violations. Regalado, an Assistant Buyer for the Los Angeles County Metropolitan Transportation Authority (MTA), authorized awarding 113 MTA purchase orders or change orders to John Park. Park solely owns P & P Fire Protection, Sure Shot Safety Supply and Safety Alliance Fire Protection. During the 12 months prior to Regalado making these decisions, Park paid Regalado numerous cash kickbacks in order to obtain purchase or change orders.

Disclosure Violations

August 6 Meeting

John Upton, William Conlon, treasurer, and the Committee to Elect John Upton were fined \$4,500 for receiving cash contributions of \$100 or more and various disclosure violations.

Upton, a successful El Dorado County Supervisorial candidate in the November 8, 1994, election, accepted four cash contributions of \$100 or more which totaled \$1,000 in cash. The committee also failed to list expenditures for subvendors; failed to file late contribution reports and failed to list occupation/employer information for approximately 60 percent of contributors.

The Act prohibits receipt of a cash contribution of \$100 or more. Monetary contributions of \$100 or more are required to be made by written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or intermediary.

September 3 Meeting

Committee for Responsible Woodside Town Government and Ralph Oswald, were fined \$14,000 for various disclosure violations.

The committee was formed in October 1995 to support the candidacies of Peter Bohley, Clifford Greyson, Pete Sinclair, and Mary Sincliticio, who were running for Woodside City Council in the November 7, 1995, election. The committee was organized by Ralph Oswald, co-owner of the Woodside Village Pub, with the assistance of Peg Collier, a political consultant. Oswald prepared the campaign reports that were eventually filed and Erica Gonzales, an employee of Woodside Village Pub, signed the campaign forms as the treasurer at the request of her employer.

The committee spent \$14,775 to elect the new council majority. The campaign consisted mainly of newspaper advertisements and last minute direct mailers. Since the committee did not file any campaign reports until after the election, no information about contributors to the committee or expenditures made by the committee was disclosed to the voters prior to the election. The committee failed to timely file a second pre-election campaign statement; four supplemental independent expenditure reports; two late contribution reports; a late independent expenditure report; and failed to truthfully report information on a statement of organization.

Tom Umberg, Tom Umberg for Attorney General, and Susan Naples, treasurer, were fined \$9,000 for failing to file late contribution reports.

Umberg was a candidate for Attorney General in the 1994 General Election. Between October 25, 1994, and November 10, 1994, Umberg and his committee failed to file five late contribution reports for contributions totaling \$112,000.

Dexter Henderson was fined \$7,000 for various disclosure violations. Henderson was a candidate for Inglewood School Board in the 1993 and 1997 elections. He won the 1993 election but lost his reelection bid in 1997.

Enforcement Actions

Henderson failed to file any campaign statements before the 1993 election. After repeated contacts, he filed a Form 470, Short Form Campaign Statement, that was over five years late, disclosing that he had not raised or spent \$1,000 in the election. For calendar years 1994, 1995 and 1996, Henderson failed to file any campaign statements.

Henderson spent over \$9,000 in connection with his 1997 reelection bid; however, he failed to timely file his two pre-election campaign statements and his semi-annual campaign statement. Henderson also failed to timely file his 1996 annual statement of economic interests and after his term expired in June 1997, his leaving office statement of economic interests was not filed.

Taxpayers Against Frivolous Lawsuits (Taxpayers) was fined \$4,000 for failing to disclose accrued expenses. Taxpayers was a primarily formed committee to oppose Proposition 211 in the November 5, 1996, general election. Taxpayers failed to report \$447,373 in accrued expenses during the first and second pre-election reporting periods. The majority of the accrued expenses were owed to Goddard*Claussen, Taxpayer's campaign consultant.

The Act requires committees to report all expenditures (including accrued expenses) made during a reporting period. A committee has a duty to determine and report the value of consideration for goods and services it has received but has not paid for during a reporting period, even if an invoice has not yet been received.

Orange County Democratic Central Committee was fined \$1,500 for failing to file a late independent expenditure report. During the late independent expenditure period for the March 26, 1996, primary election, the committee sent a mailer that supported Lou Correa for State

Assembly, 69th District. The late independent expenditure for this mailer was not reported.

Sutter Health was fined \$1,500 for failure to file a major donor committee campaign statement. Sutter Health, a nonprofit corporation, contributed \$75,000 to California Healthcare Committee on Issues, a statewide committee. The contribution was in support of an initiative on the November 5, 1996, ballot. Sutter Health failed to timely file a major donor statement reporting this contribution.

Sutter Health Central was fined \$1,500 for failure to file a major donor committee campaign statement. Sutter Health Central and its affiliated entities contributed \$19,760 to California Healthcare Committee on Issues, a statewide committee. These contributions were in support of an initiative on the November 5, 1996, ballot. Sutter Health Central failed to timely file a major donor statement reporting the contributions.

October 1 Meeting

Sonoma County Supervisor **Timothy Peter Smith and Campaign to Elect Tim Smith** were fined \$18,000 for failing to maintain required records and failing to report expenditures and subvendor payments. During January 1, 1993, through June 30, 1996, the committee failed to maintain records for 180 separate expenditures of \$25 or more. All of the expenditures were made on credit cards. In addition, expenditure and subvendor information for numerous transactions was not disclosed.

During this three-year period, a pattern of failing to properly maintain records and report expenditures occurred. The Commission's Enforcement Division initially suspected possible personal use violations, especially since some of the expenditures were made for alcohol, candy and perfume. Smith stated these expenditures were all related to fundraising

activities or were gifts to campaign workers and volunteers. Because of the failure to maintain records, the Commission was unable to verify whether certain expenditures were appropriate.

Dairyman's Cooperative Creamery Association (DCCA) and Susan Brown, treasurer, were fined \$8,000 for failure to disclose the true names, addresses, occupations and employers of campaign donors on campaign reports filed for six reporting periods in 1994.

DCCA, located in Tulare, consists of dairy farmers who market their milk through the cooperative. Each farmer contributes a percentage of his income to DCCA. A portion of each farmer's contributions to DCCA is then used to make donations to political candidates. During the period of January 1, 1994, through December 31, 1994, DCCA's general purpose committee failed to itemize the name, address, occupation and employer of each farmer whose contributions to the association was made for political purposes and amounted to \$100 or more.

Champs Operating Group, Inc. (CHAMPS) and Leo Chu, responsible officer, were fined \$7,500 for failing to file four late independent expenditure reports. Prior to the March 7, 1995, election in the City of Pomona, CHAMPS made late independent expenditures against mayoral candidates Abe Tapia and Milo Rodich and in support of candidate Eddie Cortez. CHAMPS also made late independent expenditures against city council candidate Bob Jackson. Late independent expenditure reports were not filed in a timely manner.

California Coalition for Immigration Reform (CCIR) and Barbara Anne Coe, treasurer, were fined \$3,250 for failing to report expenditures before the November 8, 1994, election. In October and November of 1994, CCIR made expenditures totaling \$5,350 in support of the passage of Proposition 187, a

statewide initiative. CCIR failed to file an independent expenditure report, a late independent expenditure report and a semi-annual campaign statement in connection with the expenditures.

Other Violations

September 3 Meeting

Friends of the Albany Waterfront Committee Opposed to Measure F Sponsored by the Oaks Card Club, Jerri Holan, and Helene Miller were fined \$14,000 for identification violations.

The committee was formed to oppose a local ballot measure that would have allowed the development of a card room on the waterfront in the City of Albany. Holan, a self-described community activist and environmentalist, was the responsible officer and Miller was the treasurer of the committee.

The committee sent four campaign mailers prior to the November 8, 1994, election in Alameda County. In the mailers, the committee presented itself as a grass-roots organization made up of Albany residents and friends. On the outside of each mailer, the sender was identified as "Paid for as a Public Service by Friends of the Albany Waterfront Committee Opposed to Measure F." The committee was not a grass-roots organization; it was a committee sponsored by the Oaks Card Club of Emeryville since more than 80 percent of the contributions received by the committee came from the Oaks Card Club. All of the contributions raised by the committee came from persons outside of the Albany area.

The committee was fined for failure to correctly identify its sponsor and to include the name of its sponsor in the name of the committee on its statement of organization; failure to include the name of its sponsor in the name of its pre-election and semi-annual campaign statements; and failure to use proper sender identification on its campaign mailers.

Enforcement Actions

The State Bar of California was fined \$2,000 for proposing that a contract include a bonus contingent upon the enactment of proposed legislation.

In 1996, the State Bar of California considered and went forward with a plan to contract out the position of its chief legislative lobbyist. In November 1996, the State Bar Board of Governors passed a resolution to negotiate a professional services contract with Mel Assagai. Assagai formerly served as the Senior Executive for Governmental Affairs with the State Bar where he functioned as the State Bar's chief legislative advocate.

As of mid-December 1996, the State Bar and Assagai had reached a tentative agreement as to the terms of this professional services contract. These tentative terms included a flat fee to Assagai of \$500,000 per year for two years. Subsequently, State Bar President Thomas G. Stolpman communicated to Assagai his dissatisfaction with the fee arrangement and made a counterproposal. Stolpman proposed a flat fee of \$450,000 per year for two years, with a \$75,000 bonus if Assagai secured enactment of a multi-year funding bill for the State Bar. On January 2, 1997, Assagai and the State Bar reached a final written professional services agreement which incorporated a contingent bonus clause as proposed by Stolpman.

The Act prohibits a contract from including a bonus contingent upon the enactment of proposed legislation.

October 1 Meeting

Solano County Supervisor **Bernard Herschel Thomson, also known as Skip Thomson**, was fined \$4,000 for personal use of campaign funds and disclosure violations.

During 1992 through 1994, Thomson's controlled committee received loans from both Thomson and County Municipal Teachers Credit

Union. As of January 31, 1995, the committee had approximately \$18,000 in outstanding loans. In 1995, the committee made \$22,391 in loan repayments, \$11,750 to Thompson and \$11,641 to the credit union. The loan repayments exceeded the amount owed by approximately \$4,000. In September 1997, Thompson deposited over \$4,000 into his campaign bank account to return the overpayment.

The excessive loan repayments appear to have occurred because of the committee's negligent accounting of its loan repayments and account balances. During 1994 and 1995, the balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement were not correctly reported. These figures were overstated by amounts ranging from \$6,160 to \$30,779.

Tom Bamert and the Bamert Campaign Committee were fined \$1,750 for failure to include proper sender identification on a mass mailing.

Bamert was a successful candidate for reelection as a member of the Amador County Board of Supervisors, District 2 seat, in the November 5, 1996, General Election. Prior to the election, Bamert and his controlled committee paid for sending an endorsement letter written by Fred Ringer. The "sender" of a mass mailing is the candidate or committee who pays for the largest portion of expenditures attributable to the mass mailing. The Act requires a single candidate sending a mailing to include the name, street address and city of the candidate on the outside of the mailing in no less than 6-point type in a color or print style that contrasts with the background of the mailing.

Advice Revision

Some Plaques/Trophies No Longer Reportable on Lobbying Forms

At the September 3, 1998, meeting, the Commission rescinded Advice Letter A-88-018 that requires lobbyists, lobbying firms, or lobbyist employers to disclose a personalized plaque or trophy valued at less than \$250 provided to an official. Because plaques or trophies valued at less than \$250 are excluded from the Act's definition of a "gift," they are not required to be reported on lobbying disclosure forms.

1998 Lobbying Manual Available

The 1998 Lobbying Disclosure Information Manual is now available. The manual was updated to include legislative and regulatory amendments that have been enacted since the last version was issued in 1996. Persons who wish to obtain a manual should contact the Secretary of State's office at (916) 653-6224.

Reminder...

**Third quarter lobbying disclosure
statements are due Monday,
November 2, 1998, since
October 31, 1998, falls on a
Saturday.**

Lobbyist Ethics Orientation Course Scheduled

Lobbyists are required to attend an ethics orientation course as a condition of certification. The Joint Legislative Ethics Committee and the Senate Ethics Committee have scheduled the course for:

Who: All lobbyists who have not taken the course in the past 12 months. (The last courses were offered March 27, 1998, and May 1, 1998.)

When: **November 19, 1998**
10 a.m.-12 noon
(Sign up deadline is November 10, 1998)

January 8, 1999
10 a.m. - 12 noon
or
2 p.m.- 4 p.m.
(Sign up deadline is December 21, 1998)

Where: Sacramento Convention Center
1030 15th Street, 3rd Floor
(Enter on J Street)

Cost: \$10 per person

Advance

Sign-up: Sign up forms will be mailed by Friday, October 9, 1998. Return completed form by the sign-up deadline to:

Senate Committee on Legislative Ethics
Room B-31, State Capitol
(Across from the Bill Room)
Sacramento, CA 95814-4906

Please call (916) 324-6929 for more information.

Workshops Scheduled

Lobbying Disclosure Workshops

- ▶ New registration requirements for the 1999-2000 legislative session
- ▶ Review of Forms 615, 625, and 635
- ▶ Discussion of gift notifications

These workshops are not intended for lobbyists who need to attend an orientation course to complete their lobbyist registration. Orientation courses have been scheduled for November 19, 1998 and January 8, 1999. (See previous page.) Orientation workshops are conducted by the Joint Legislative Ethics Committee and the Senate Ethics Committee. Please call (916) 324-6929 for information on orientation workshops.

Sacramento

Friday, October 16

Friday, November 13

Commission Hearing Room
428 J Street, 8th Floor
10:00 a.m. to 12 noon

Candidate/Treasurer Workshops

These workshops are tailored to assist candidates and treasurers of candidate controlled committees involved in Spring 1999 elections. Campaign disclosure provisions and prohibitions will be discussed. Campaign forms will also be reviewed.

These workshops are geared to campaigns that will raise over \$1,000. However, all candidates are welcome and encouraged to attend.

Burbank

Saturday, December 12

Council Chambers
275 E. Olive Avenue
1 p.m.-3 p.m.

Redondo Beach

Wednesday, December 16

Council Chambers
415 Diamond Street
7 p.m.-9 p.m.

Norwalk

Saturday, December 19

Council Chambers
12700 Norwalk Blvd.
1 p.m.-3 p.m.

Reservations Required for all Workshops
Free — Sign up Today! (916) 322-5660

Facts About Late Contribution Reports

The purpose of the late contribution report is to provide information to voters about contributions of \$1,000 or more from a single source flowing into campaigns during the last 16 days before an election.

Where and When to File

Late contribution reports (Form 497) are filed with the same filing officers that candidates or committees making or receiving late contribution file their regular campaign statements. Candidates and committees must report monetary contributions within 24 hours. The recipient of non-monetary contributions must file a late contribution report within 48 hours from the time the expenditure was made.

Examples:

Jim Humphrey, a city council candidate in the November 3, 1998, election, received \$500 from Jones Construction on October 16. This contribution was reported on Mr. Humphrey's second pre-election statement. Mr. Humphrey received \$650 from Jones Construction on October 22. A late contribution report is not required since the committee did not receive \$1,000 or more from Jones Construction during the 16 days before the election.

Committee for Safer Streets, Yes on Measure Y, received a \$500 contribution from Ava New on October 25. Ms. New gave another \$500 contribution to the committee on October 31. Since the contributions from Ms. New total \$1,000 during the 16 days before the election, the committee must file a late contribution report.

On-Line Access

Visit Secretary of State's website www.ss.ca.gov for late contribution reports for state committees.

Method of Delivery

Late contribution reports may not be sent by first class mail. One of the following delivery methods must be used:

- fax
- personal delivery
- guaranteed overnight service
- telegram

On-going Contributions

The Commission has provided long-standing advice that candidates and committees may file a single estimated late contribution report when more than one non-monetary contribution will be made by or received from a single contributor during the late contribution period. Common examples of on-going non-monetary contributions are phone banks and administrative services. However, estimated reports are required to be amended if the actual value of the contributions differ "substantially" from the estimated amount.

On October 1, 1998, the Commission adopted an amendment to Regulation 18425 that clarifies if the value of the contribution differs from the estimated amount by 20 percent or more, the estimated report must be amended within 24 hours from the time the candidate or committee knows that the estimated value is incorrect. A copy of the amended Regulation 18425 may be obtained by dialing 1-888-622-1151 and requesting Index Number 2029.

Valuing Non-monetary Contributions

The fair market value of a non-monetary contribution is the amount the officeholder, candidate, or controlled committee would pay for the item or service on the open market.

Late-Filed Statements: *Fines and Waivers*

Filing officers who receive campaign statements and statements of economic interests have a duty under the Act to impose late filing penalties on filers who fail to file on time. In certain situations, filing officers may waive fines for good cause. The following steps should be followed regarding late filed statements:

Step 1

Filing officers are required to maintain logs that contain a current list of filers and when statements are due. After a filing deadline, filing officers must consult the log and notify non-filers that statements are filed late. Examples of non-filer letters are contained in the Commission's *Handbook for City and County Filing Officers for Campaign Disclosure Provisions* and *Handbook for Filing Officials and Filing Officers for Statements of Economic Interests*.

Step 2

Fines may not be imposed or waived until the late-filed statement has been received by the filing officer. If a waiver is not submitted, the filing officer may request that the filer provide a reason for the late filing. However, filing officers may not waive late fines if specific written notice of the filing requirement has been sent and the filer does not comply with the due date specified in the notice. It is recommended that each state and local agency have written guidelines for waiving and imposing fines.

Step 3

The filing officer may send a letter to the filer regarding waiver or imposition of the late filing penalty. Once a filing officer decides to impartially impose a late fine, a filer has no grounds to appeal the late filing penalty. Filing officers receiving late fines may deposit the funds into their agency's general fund. The Secretary of State's office has published guidelines for late campaign fines.

Clerk's Corner is a new column the Commission is implementing with this issue of the Bulletin to provide a forum to address questions and issues specific to filing officers who receive campaign statements and statements of economic interests. The article above is included in the Bulletin at the request of a city clerk who wanted information about the fine/waiver process for late filed statements. Filing officers who wish to have specific issues addressed in future issues of the Bulletin should contact Dixie Howard at (916) 322-5660.

Thank You!

The Commission's Technical Assistance Division wishes to extend its thanks to the cities and counties who graciously hosted the numerous candidate/treasurer and conflict of interest workshops conducted throughout the state during July and August. There was high attendance at most of the workshops, and according to the responses received on the evaluation forms, the workshops were well received by the candidates and treasurers who attended.

Commission Meeting Summaries

August 6 Meeting

Chairman James M. Hall called the August 6, 1998, meeting of the FPPC to order at 10:03 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel and James Porter were present.

The Commission approved \$6,500 in enforcement fines and authorized the Enforcement Division to retain the services of an outside collection agency to pursue collection of enforcement fines. In addition, the Commission held pre-notice discussion of the proposed restructuring of conflict of interest regulations and discussed adoption of proposed Regulation 18714 -- Influencing Prospective Employment. The Commission also adopted revisions to the following forms and handbook:

- Form 416 — Officeholder and Candidate Statement of Termination
- Form 470 — Officeholder and Candidate Campaign Statement— Short Form and Form 470 Supplement
- Form 601 — Lobbying Firm Registration Statement
- Form 602 — Lobbying Firm Activity Authorization
- Form 603 — Lobbyist Employer/Lobbying Coalition Registration Statement
- Form 604 — Lobbyist Certification Statement
- Form 605 — Amendment to Registration
- Handbook for City and County Filing Officials and Filing Officers for Statements of Economic Interests Form 700

September 3 Meeting

Chairman James M. Hall called the September 3, 1998, meeting of the FPPC to order at 10:02 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William

Deaver, Kathleen Makel and James Porter were present.

The Commissioners approved \$107,900 in enforcement fines. In addition, the Commission held pre-notice discussion of proposed amendments to Regulation 18530 -- Use of Public Funds, to determine the scope of Section 85300. In addition, the Commission held a second pre-notice discussion of the proposed restructuring of the conflict of interest regulations. Regulation 18747 (formerly Regulation 18714) -- Influencing Prospective Employment was adopted. The Commission also approved revisions to the 1998 Lobbying Disclosure Information Manual.

October 1 Meeting

Chairman James M. Hall called the October 1, 1998, meeting of the FPPC to order at 10:02 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commissioners approved \$362,500 in enforcement fines. As this issue goes to press, the Commission announced that they would issue future enforcement decisions for the following cases:

- Matter of United Democratic Campaign Committee, Willard Murray and Kevin Murray, Treasurer, Case No. 94/685 and Friends of Kevin Murray and Kevin Murray, Case No. 96/312
- Matter of the Bell Gardens Bicycle Club, George Hardie, Tammy Grant, David Gould, Jerry Westlund, Park Place Associates, LTD., Lucille Nelson, Hardie Financial Group Inc./Hardie Group Inc., Case No. 95/464

In addition, the Commission adopted proposed amendments to Regulation 18425 — Late Contributions; Reports and adopted the proposed restructuring of conflict of interest regulations.

Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.” Letters related to Proposition 208 may be included under separate headings.

On January 6, 1998, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California Prolife Council PAC vs. Scully*, CIV-S-96-1965 LKK/DAD.) On January 15, 1998, the Fair Political Practices Commission decided to immediately appeal the ruling to the Ninth Circuit Court of Appeals.

Campaign

William C. Vickrey
Judicial Council of CA
Dated February 5, 1998
Our File Number: A-97-594

This letter discusses prohibitions on the use of state resources for campaign purposes, in the context of judicial campaigns. The relationship of Sections 85300 and 8314, which both prohibit the use of public resources for campaign purposes, is also discussed.

Terence K. McAteer
Grass Valley
Dated February 5, 1998
Our File Number: I-97-600

This letter discusses whether the expenses incurred by a radio station that airs a weekly talk show hosted by an individual who is running for reelection to local office would constitute in-kind contributions to the individual's campaign.

William J. Brunick
Brunick, Alvarez & Battersby
Dated February 9, 1998
Our File Number: I-97-605

This letter discusses the criteria for determining when campaign funds may be used by an elected official for the making of a donation to a nonprofit charitable organization.

Joyce M. Hicks
City of Oakland
Dated February 20, 1998
Our File Number: I-98-007

This letter discusses the reporting obligations of a city that wants to conduct a poll to determine the feasibility of creating an assessment district or imposing a special tax through the ballot measure process.

Advice Summaries

Richard Kalayjian
International Assn of Firefighters
Dated March 20, 1998
Our File Number: I-98-019

This letter provides general advice regarding the reporting obligations of a sponsored committee.

Poppy DeMarco Dennis
Community Coalition Network
Dated February 24, 1998
Our File Number: A-98-029

A 501(c)(4) organization distributes mailings that provide the voting records and positions of school board candidates. The mailing may be a contribution or independent expenditure depending on whether the mailing contains express advocacy and/or the mailing was made at the behest of a candidate.

Poppy DeMarco Dennis
Community Coalition Network
Dated March 18, 1998
Our File Number: A-98-029(a)

A mailing sent by a nonprofit organization evaluating candidates for local school boards is considered an independent expenditure because the mailing contains express advocacy and is not made at the behest of any candidate.

Poppy DeMarco Dennis
Del Mar
Dated February 24, 1998
Our File Number: A-98-042

A candidate, who is a member of a religious organization, circulated a nominating petition during regularly scheduled social hours on property owned by the organization. The candidate did not receive a contribution from the organization as a result of this activity.

Poppy DeMarco Dennis
Del Mar
Dated June 10, 1998
Our File Number: A-98-042(a)

This letter discusses whether a candidate who solicits signatures for a nominating petition at a church would be receiving a contribution from the church.

Kristin Parisi
PRIDE II
Dated April 10, 1998
Our File Number: I-98-057

An organization that is making expenditures for political and non-political activities should solicit for donations under procedures that notify donors about the amounts that will be used for political purposes. Campaign funds may be used to pay for litigation that is related to a political, legislative or governmental purpose and is consistent with the committee's primary objectives.

Sandra Farrington-Domingue
Los Angeles
Dated April 13, 1998
Our File Number: I-98-059

Payments made by an individual who assumes a campaigning candidate's personal debts are in-kind contributions that must be reported on the candidate's campaign statement.

Lonna B. Smith
Sutter County
Dated March 26, 1998
Our File Number: A-98-068

A filing officer attempted to contact a non-filer. When there was no response she informed her county's DA office. She has met her obligations as a filing officer with regard to this non-filer.

Advice Summaries

Claude Parrish
Rancho Palos Verdes
Dated April 17, 1998
Our File Number: I-98-069

A candidate for a state agency must report a loan which is collateralized by stock in his brokerage account as a loan from the stock brokerage firm on Schedule B, Part I. This candidate must show a loan of his own funds from a money market fund as a loan from himself.

Kirk Alan Pessner
Law Office of Russell H. Miller
Dated May 27, 1998
Our File Number: I-98-099

For purposes of Sections 81007 and 81007.5, the term “guaranteed overnight delivery service” means statements must be sent through a courier that can guarantee next day delivery. The courier’s two-day guaranteed service may not be used. However, the method of delivery is not an issue if the statement is received by the filing officer on or before the filing deadline.

Vigo G. Nielsen
Nielsen, Merksamer, Parrinello,
Mueller & Naylor, LLP
Dated May 21, 1998
Our File Number: A-98-111

A committee that receives a late in-kind contribution is required to report that contribution within 48 hours even if the contributor does not notify the donee as required by Section 84203.3 and the donee is otherwise unaware of the late in-kind contribution.

Vigo G. Nielsen
Nielsen, Merksamer, Parrinello,
Mueller & Naylor, LLP
Dated May 21, 1998
Our File Number: A-98-112

A professional treasurer for a ballot measure committee is an “officer” under Section 84211(t).

Steve Rice
McNally Temple Associates, Inc.
Dated April 30, 1998
Our File Number: I-98-113

An Assembly candidate asks if his employer may continue to pay his normal salary while he campaigns and whether they may make a \$25,000 monetary contribution. Reporting issues are also discussed.

Mez Benton
27th Assembly District
Democratic Committee
Dated May 21, 1998
Our File Number: A-98-116

This letter discusses the reporting requirements of four political party committees that want to hold a joint fundraiser to raise money for candidates and to build and operate a political party headquarters.

David B. Roberts
Rancho Cordova Incorporation
Committee
Dated June 1, 1998
Our File Number: A-98-125

An incorporation committee does not have to report moneys raised to pay for a feasibility study and an environmental impact report. Also, the funds will not be reportable, if, and/or when, the proposal for incorporation becomes a committee.

Ben Davidian
Wilke, Fleury, Hoffelt, Gould &
Birney, LLP
Dated May 8, 1998
Our File Number: A-98-127

This letter discusses in detail whether communications regarding Proposition 226 contain express advocacy.

Harvey Tsuboi
Office of the Secretary of State
Dated June 2, 1998
Our File Number: A-98-135

Officeholder committees established pursuant to Section 85313 of Proposition 208 are required to file semi-annual statements, only if \$1,000 or more is raised. Officeholder committees are not subject to the pre-election filing requirements of Sections 84200.5 and 84200.7.

Harvey Tsuboi
Office of the Secretary of State
Dated May 12, 1998
Our File Number: I-98-144

Consolidated pre-election and semi-annual statements may be filed in connection with the first pre-election filing deadline of July 23, 1998, for September 1, 1998, special election in the 9th Senate District.

Conflict of Interest

Patrick B. Greenwell
County of Tuolumne
Dated May 14, 1998
Our File Number: A-97-543a

If a bona fide, irrevocable gift of a golf club membership to an adult, non-dependent child, is made the public official no longer has an economic interest in the golf club membership.

Debbie Rodgers Teasley
Coldwell Banker
Town & Country
Dated May 15, 1998
Our File Number: A-97-545a

A real estate agent has a conflict of interest in a development project if the decision to approve the project will have a material financial effect on her employer. The foreseeability element is met since it is substantially likely that her employer will receive business as a result of the development. The public generally exception does not apply.

Louis Boitano
County of Amador
Dated May 12, 1998
Our File Number: I-97-557

This letter provides guidance as to whether an official's interest in a family trust creates a conflict in decisions affecting real property held by the trust.

Charles S. Vose
Oliver, Vose, Sandifer,
Murphy & Lee
Dated April 17, 1998
Our File Number: I-97-578

The conflict of interest rules may apply to a councilmember who sits as an ex-officio member of a hospital foundation if an express provision of law or a binding agreement requires or permits reconsideration or appeal by a government agency even though the foundation is not a local government agency under *In re Siegel* (1976) 3 FPPC Ops. 62.

Advice Summaries

Kathryn Winter
Napa Valley
Dated March 3, 1998
Our File Number: A-97-610

This letter discusses conflicts of interest that exist and may arise for a county supervisor based on her husband's sales and marketing of a guidebook he has written. The letter analyzes source of income.

Kathleen Walsh
CA Air Resources Board
Dated February 11, 1998
Our File Number: A-97-615

The receipt by a designated employee's wife of a "company car" from Electronic Data Systems Corporation does not create a conflict of interest for him in making decisions affecting General Motors, as Electronic Data Systems is the provider of the car to the wife, and the corporation is no longer a subsidiary of General Motors.

Cynthia Curry
Health and Welfare Agency
Data Center
Dated March 9, 1998
Our File Number: I-98-006

This letter discusses potential conflicts of interest that designated employees of the agency who own stock in Microsoft or Intel may have in participating in agency decisions to purchase computers.

Thomas M. Griffin
Sacramento
Dated February 23, 1998
Our File Number: I-98-012

A school superintendent may serve on an advisory council with oversight over county special education programs where his wife is Director of Special Education. However, he must disqualify himself from decisions about his wife's hiring, firing, demotion, discipline, or setting her salary at a different level for similar employees.

Robert W. Hargreaves
Best Best & Krieger, LLP
Dated February 23, 1998
Our File Number: A-98-013

A public official has a disqualifying conflict of interest if her pro rata share of her business' income for a client who is also a party to a contract awarded by her agency equals or exceeds \$250 in a twelve-month period.

Willie L. Hailey, Sr.
Barstow
Dated February 24, 1998
Our File Number: A-98-020

A member of the school board who also coaches football at the high school may participate in the school board decision to approve the football coaches' salaries.

John D. Flitner
City of Rohnert Park
Dated February 25, 1998
Our File Number: A-98-021

A councilmember who is also the superintendent of a school district may participate in a city council decision for the city to either annex or deannex territory which includes part of the school district.

Clayton L. Brennan
Mendocino County Russian
River Flood Control & Water
Control District
Dated April 9, 1998
Our File Number: A-98-025

This letter gives general advice in response to a question whether three trustees of a flood control and water control district, who are also users of district water, may participate in decisions setting water fees.

Nathan J. Rangel
Adventure Connection
Dated March 4, 1998
Our File Number: A-98-032

This letter concludes that it is not reasonably foreseeable that a public official's business will be affected by the expansion of a state park. The letter also concludes that the public official does not have an economic interest in a trade organization that he lobbies on behalf of since he does not get paid for his services.

Nathan J. Rangel
Adventure Connection
Dated May 5, 1998
Our File Number: A-98-032a

This letter clarifies facts in the *Rangel* Advice Letter, No. A-98-032, but does not alter the conclusion that it is not reasonably foreseeable that there will be a financial effect on the official's economic interest.

Roseanne Chamberlain
El Dorado Local Agency
Formation Commission
Dated February 23, 1998
Our File Number: A-98-039

A public official may participate in a decision directly involving her husband's superior.

Karen M. Tiedemann
Goldfarb & Lipman
Dated March 17, 1998
Our File Number: A-98-045

A city manager is a public official and may not make, participate in making, or influence governmental decisions that have a reasonably foreseeable and material financial effect on his spouse's employer.

Jeffrey G. Jorgensen
City of San Luis Obispo
Dated March 5, 1998
Our File Number: A-98-046

The city attorney's participation as a homeowner in the city's Voluntary Service Lateral Investigation and Rehabilitation Program does not constitute a conflict of interest under the Act.

Roseanne Chamberlain
El Dorado Local Agency
Formation Commission
Dated March 31, 1998
Our File Number: A-98-051

This letter discusses whether a LAFCO commissioner may participate in a decision to incorporate an area in which she owns a personal residence and runs a small business.

Steven R. Meyers
Meyers, Nave, Riback,
Silver & Wilson
Dated March 11, 1998
Our File Number: A-98-053

This letter discusses whether a city councilmember who has an economic interest in a utility company may participate in decisions that will increase the amount of water available to the utility company to generate electricity.

Margaret A. Sloan
Jorgensen, Siegel, McClure
& Flegel, LLP
Dated March 20, 1998
Our File Number: A-98-060

The Commission staff does not have the authority to grant an administrative exemption. The requestor requested relief from the maximum one acre requirement of the public generally exception for a public official's principal residence found in Regulation 18703.1.

Advice Summaries

Claude L. Biddle
City of Grass Valley
Dated April 3, 1998
Our File Number: A-98-062

This letter concludes that a public official may not participate in the tentative map, rezoning and lot adjustment decisions regarding a development project. This letter also includes a discussion of what is an “otherwise related business entity.”

Carl Kangas
Napa County Airport Land
Use Commission
Dated March 31, 1998
Our File Number: A-98-063

A public official may participate in the formulation of a comprehensive land use plan and a proposed amendment of a general or specific plan, or adoption of a zoning ordinance or building regulation unless the decisions will have a reasonably foreseeable and material financial effect on the public official’s employer.

Gary T. Ragghianti
City of San Rafael
Dated May 4, 1998
Our File Number: I-98-064

This letter gives general guidance on foreseeability and materiality standards regarding governmental decisions involving telecommunication companies in which a public official owns stock.

Allen Rowe
Paso Robles
Dated April 8, 1998
Our File Number: I-98-070

A city councilmember may participate in discussions pertaining to the police department where his spouse works provided there is no “personal effect” on the official or a member of his immediate family.

Michael Jenkins
City of Hermosa Beach
Dated April 9, 1998
Our File Number: A-98-075

Under the public generally exception, a significant segment of the public must be affected in substantially the same manner as the official. Where an official owns property within 300 feet from a project, the exception applies if a significant segment of the public also owns property within 300 feet. In applying the exception, officials may rely on appraisals if it is reasonable to do so. It was not reasonable for an official to rely on an appraisal stating the exception applied because the appraisal did not explicitly provide that a significant segment of the public would be affected in substantially the same manner as the official.

Roseanne Chamberlain
El Dorado Local Agency
Formation Commission
Dated March 31, 1998
Our File Number: A-98-078

This letter discusses whether a LAFCO commissioner may participate in a decision to incorporate an area in which he owns a personal residence and runs a small business.

Donald W. Parsons
Strategic Research
Dated April 7, 1998
Our File Number: I-98-090

A corporation that a public official has a substantial ownership interest in is contemplating a stock offering. The public official would like to know if he may participate in governmental decisions involving new stockholders or potential stockholders in the corporation.

Darrell W. Larsen
County of Sutter
Dated May 8, 1998
Our File Number: A-98-096

This letter discusses a conflict of interest question involving a 500 megawatt generating facility and transmission line that will run on or near property that is owned and/or farmed and/or leased by a public official.

Elizabeth L. Martyn
Rutan & Tucker, LLP
Dated May 11, 1998
Our File Number: I-98-107

A city councilmember, who is a retired reserve police officer, may participate in discussions and decisions regarding the Police Officers Association as long as there is no “personal effect” on her or a member of her immediate family.

Harold Ferber
Health & Welfare Agency
Data Center
Dated May 26, 1998
Our File Number: A-98-108

This letter discusses whether an attorney for one state agency is participating in or influencing a decision if he makes recommendations to another state agency.

Steven S. Lucas
Nielsen, Merksamer, Parrinello,
Mueller & Naylor, LLP
Dated May 13, 1998
Our File Number: A-98-109

The requestor asks when a public official “knows or has reason to know” that a governmental decision indirectly involves the bank that is a source of income to the public official. The requestor also asks if and when the public official has an affirmative duty to make herself aware of the bank’s customers.

Gregory W. Brittain
San Bernardino
Dated April 30, 1998
Our File Number: I-98-115

The requestor asks two procedural questions regarding civil litigation involving an alleged conflict of interest violation including (1) Is a tort claim under Government Code Section 905 required to be brought for an action under Government Code Section 91005(b); and (2) Must the bond required in Section 91012 include costs for reasonable attorney’s fees.

Thomas J. McGlynn
Law Offices of McGlynn
and McGlynn
Dated May 27, 1998
Our File Number: A-98-119

A board member would like to purchase property adjacent to property leased by a state board. The purchase would be from the county, not the state board. While nothing in the Act prohibits the board member from making the purchase, his ability to participate in future board decisions may be severely limited.

Kurt Hahn
City of Healdsburg
Dated May 22, 1998
Our File Number: A-98-126

A conflict of interest under the Act would not exist if an official becomes a member of a nonprofit corporation while continuing to serve in his position as a Finance/Economic Services Director for a city. The letter referred the requestor to the Attorney General regarding other possible laws.

Advice Summaries

Mark S. Robinson
Vista

Dated May 27, 1998
Our File Number: I-98-128

The Act does not prohibit a sergeant for the county sheriff's department from seeking a city council position in the same jurisdiction. Other laws may apply and the requestor was advised to contact the Attorney General's office or the city attorney.

Nathan Rangel
Adventure Connection
Dated May 28, 1998

Our File Number: A-98-131

A threat with economic consequences does not create a conflict of interest where the person making the threat does not have the means to carry out the event that will have a financial effect on an official's economic interest.

Lori J. Barker
City of Chico

Dated May 21, 1998
Our File Number: I-98-134

This letter provides informal assistance to a city councilmember/real estate broker. A third party from whom he leases office space, clerical support and derives business is not a source of income. Brokers with whom he "co-lists" a property, i.e., splits a commission, are not normally his economic interests.

Howard Stern
City of El Cerrito

Dated June 1, 1998
Our File Number: A-98-136

A public official may participate in a governmental decision regarding a proposal to build a grocery store since the decision will not have a reasonably foreseeable financial effect on the public official's source of income, a bank that participates in a credit line to the developer of the grocery store.

David Hardison
City of Azusa

Dated June 8, 1998
Our File Number: A-98-142

A councilmember may participate in the city council's consideration of a redevelopment project as long as the project will not foreseeably increase or decrease the fair market value of the official's real property by \$10,000 or more, or the rental value by at least \$1,000 in a 12 month period, or have a reasonably foreseeable material financial effect on any other economic interest of the official.

Meta Clow
University of California
Dated June 12, 1998

Our File Number: I-98-143

Public officials are required to abstain from decisions that will have a reasonably foreseeable and material financial effect on any business entity in which they know or have reason to know that they have an investment of \$1,000 or more. A public official has reason to know his or her share in an investment program. Please note, however, that the Act specifically excludes certain types of funds from its definition of investment.

Dennis J. Cosgrove
San Mateo County Employees'
Retirement Association
Dated June 11, 1998
Our File Number: A-98-145

An official who holds an uncompensated position as president of a nonprofit association does not have an economic interest in the nonprofit. Also, income from a local government agency and public sector retirement benefits are exempt from the definition of income.

Nathan Rangel
Adventure Connection, Inc.
Dated June 9, 1998
Our File Number: A-98-154

It is not reasonably foreseeable that a decision affecting a section of a river will affect a rafting company since the rafting company has not used the section of river in over ten years and does not intend to use that section in the future.

Statements of Economic Interests

Daniel Wentland
Wentland Construction Co.
Dated April 8, 1998
Our File Number: I-98-050

For reporting purposes on the Statement of Economic Interests (Form 700), gross income is the total amount of income received before deducting expenses, losses, or taxes.

Chris P. Mathys
Frenso
Dated March 26, 1998
Our File Number: A-98-065

A city councilmember is the primary shareholder of a corporation. He is not required to report on his statement of economic interests (Form 700) funding sources for mortgage loans if such sources do not provide income to the corporation. Income from mortgage borrowers may be reportable.

Alan Carlan
Rancho Palos Verdes
Dated April 21, 1998
Our File Number: I-98-066

A candidate is not required to report on his Form 700 government bonds, including municipal bonds. The candidate is required to report investments owned by his immediate family which includes his wife. Whether investments in the candidate's wife's IRA are reportable depends on the nature of the investments.

Daniel M. Kolkey
Governor's Office
Dated March 10, 1998
Our File Number A-98-067

Payments from the Economic and Trade Promotion Account to the Governor, assuming they are raised in accordance with applicable laws and from any general fund account in the Trade and Commerce Agency, fall within a statutory exception from the definition of a gift that applies to travel provided by the agency of an elected state officer.

Robert P. Hoffman
Cal/EPA
Dated April 9, 1998
Our File Number: A-98-084

A state agency may not include a signature block for supervisors on each annual Statement of Economic Interests (Form 700), since the Act does not require the signature of a supervisor on an employee's Form 700. Any amendment of a Commission form or appendix must be approved by the Commission and must apply to all filers.

Advice Summaries

Janet M. Coulter
Anaheim
Dated April 29, 1998
Our File Number: A-98-089

A workers' compensation judge received a scholarship to attend courses offered by a nonprofit organization. This payment is reported as income on Schedule C of Form 700, unless the judge did not provide adequate consideration, in which case the payment is a gift unless an exception applies.

Paul E. Rainey
California Polytechnic State
University
Dated May 29, 1998
Our File Number: A-98-101

A public official who reviews proposals for a foundation is not prevented by the Act from receiving payments from the foundation for air fare, per diem, and income. Income received from the foundation will be reportable on the official's SEI if the aggregate payment meets or exceeds \$250. In addition, contract payments received by the official for teaching courses through an extended education program will be disclosable on the official's SEI.

Conflict of Interest Code

Michael Karger and
Stephanie Scher
Kane, Ballmer & Berkman
Dated March 4, 1998
Our File Number: A-97-253

A consultant employed for a limited purpose who has no ability to make governmental decisions for or on behalf of a governmental agency is not a consultant under Regulation 18700 (a)(2) and, therefore, need not be included in a conflict of interest code.

Sheryl Patterson
Regional Transit
Dated February 25, 1998
Our File Number: A-97-570

Members of a consulting firm who have the ability to negotiate contracts on behalf of the agency, and who worked for the agency on various projects over several years are consultants under the Act and are properly included in the agency's conflict of interest code.

Peter Bianchi
Lassen County
Dated February 23, 1998
Our File Number: I-98-030

The code reviewing body for a county agency is the board of supervisors. The Commission can only offer advice regarding which employees should be designated under a county's conflict of interest code. An agency employee may submit a petition to the board of supervisors requesting an amendment, and if denied, may petition for judicial review.

Claire Lillie
CA Student Aid Commission
Dated April 10, 1998
Our File Number A-98-052

A nonprofit corporation established by legislation to perform duties originally performed by a state agency is a governmental agency which must be subject to a conflict of interest code. Because the nonprofit corporation is a subdivision of a state agency, the state agency's code should be used.

Robert C. Otto
Grossmont Union
High School District
Dated March 25, 1998
Our File Number: I-98-058

A local school district may not expand its statement of economic interests form to include information not required by Section 87302.

Alan K. Marks
County of San Bernardino
Dated May 26, 1998
Our File Number: A-98-073

This letter discusses whether contract physicians should be considered “consultants” and included in the county’s conflict of interest code. A person is not a consultant under Regulation 18700 (a)(2)(B) unless the person performs substantially all the same tasks as would be performed by a staff member and engages in the decision making process (making, participating or influencing the decision).

Harold Ferber
Health & Welfare Agency
Data Center
Dated May 26, 1998
Our File Number: A-98-118

Contractors who have ongoing broad project roles for a duration of more than one year on a complex system integration project are consultants.

Mass Mail

Steven Kamp
Van Nuys
Dated March 9, 1998
Our File Number: A-97-623a

This letter is a follow up formal advice letter to the *Chiang* Advice Letter, No. I-97-623. Five different co-sponsored events and the announcements of those events are discussed. Main topics include the new definition of “contribution” and the mass mailing prohibitions.

Christine D. Lovely
Atkinson, Andelson, Loya, Ruud
& Romo
Dated February 20, 1998
Our File Number: A-98-017

A web page is not currently considered a mass mailing. A web page provided by a school district does not violate Section 85300 as long as it does not show any indication of support, approval or express advocacy for a candidate.

John G. Barisone
Atchison & Barisone
Dated March 6, 1998
Our File Number: A-98-033

A city may use public funds to distribute a candidate brochure that follows guidelines set forth in Elections Code Section 13307. The city may not place obstacles to a candidate’s inclusion on the brochure that have the effect of favoring incumbents. If the brochure only includes an incumbent candidate for a particular office and does not include a challenger, the brochure would not be a permissible mailing under Section 89001. Also, the brochure must state the criteria a candidate must satisfy to be included in the brochure.

Advice Summaries

Chris P. Mathys
City of Fresno
Dated April 10, 1998
Our File Number: I-98-087

The requestor asks whether a developer may assist a public official in noticing a public meeting to be held on issues pertaining to a developer's project. The question implicates the mass mailing provisions of the Act. Also, a contribution to the public official may result depending on the factual situation.

Jay T. Imperial
City of Rosemead
Dated May 8, 1998
Our File Number: A-98-103

A chamber of commerce publishes a monthly newspaper, which is a non-subscription publication. The city contracts with the chamber to include four pages of city news and events. The newspaper must comply with the mass mailing provisions of the Act.

Jacalyn H. Foote
Arcata
Dated May 21, 1998
Our File Number: A-98-114

There is currently nothing in the Act that would prohibit a link from a school district web site to a web page the advocates for the passage of a bond measure. However, the provision of the link from the web site to the web page may result in a reportable contribution to the committee.

Bob Smith
Pioneer Fire Protection District
Dated May 13, 1998
Our File Number: A-98-117

A fire district asks a number of questions regarding the mass mailing provisions of the Act. The fire district does not use any tax funds or tax supported personnel in producing the newsletter. The fire district is considering including paid political advertisements.

Gift Limits

Robert Eisman
Department of Justice
Dated March 23, 1998
Our File Number: A-98-072

An athletic team composed of state employees may accept a monetary donation from a restaurant corporation. Some designated employees on the team may be subject to the gift limit. The source of the gift is the team, not the restaurant corporation.

Rosann Gallien
Port of San Diego
Dated April 8, 1998
Our File Number: A-98-088

The use of meeting rooms at privately owned, "membership only" yacht club facilities, is a reportable gift to the public officials subject to the gift limits.

LeeAnn M. Pelham
Los Angeles City
Ethics Commission
Dated April 24, 1998
Our File Number: G-98-122

An airline upgrade is not a gift to a city employee where it is issued for airlines business reasons, unrelated to the employee's official status. However, the transfer of the upgrade from the city employee who received it from the airline to another city employee is a gift.

Revolving Door

James F. Sweeney
Sacramento
Dated March 6, 1998
Our File Number: A-98-022

This letter discusses whether the former Chief Counsel to the Secretary of State may 1) file campaign reports 2) submit requests for waivers of fines and penalties 3) file candidate and/or challenge designations and 4) file and/or challenge ballot measure titles, summaries, and arguments.

Rebecca A. Parker
Davis
Dated March 20, 1998
Our File Number: A-98-031

The requestor seeks advice on how the revolving door prohibitions will affect her employment opportunities as an evaluator of educationally related programs for a local government agency considering that the requestor's former employer is the California Department of Education.

Richard Radan
Fair Oaks
Dated March 18, 1998
Our File Number: I-98-041

A designated state employee, who manages large information technology projects, seeks general advice regarding the post-government employment restrictions of the Act.

Lyle A. Smoot
Elk Grove
Dated April 8, 1998
Our File Number: A-98-061

An officer of a state board is considering employment outside of state service. The agency is comprised of four legislators, the Directors of the Departments of Finance and General Services, and the Superintendent of Public Instruction. Questions included: 1) Which agency did the officer work for or represent; and 2) May the officer appear before the legislative members.

Richard Radan
Fair Oaks
Dated March 31, 1998
Our File Number: I-98-076

The Act does not prevent a prospective employer from bidding on a project involving a designated employee's former government agency. However, the designated employee may not be identified in connection with the contract.

James M. O'Neil
Crown Realty &
Development, Inc.
Dated May 15, 1998
Our File Number: A-98-140

The "revolving door" provisions of the Act do not apply to a former designated employee of a city.

Advice Summaries

Miscellaneous

**John Rozsa
Carmichael
Dated March 11, 1998
Our File Number: A-98-028**

The Act does not prohibit an individual from serving as a legislative consultant and also performing occasional work for a private business. But the business will become a source of income to the individual, and he may not make governmental decisions that would have a material financial effect on the business. The honoraria ban and the Legislative Code of Ethics are also discussed.

**Fred Huebscher
California Democratic Alliance
Dated May 1, 1998
Our File Number: A-98-098**

The disclaimer on a joint slate mailer produced by two slate mailer organizations must list the name of the slate mailer organization that paid the largest portion of expenditures attributable to the mailer.

**Fred Huebscher
California Democratic Alliance
Dated May 1, 1998
Our File Number: A-98-100**

By choosing the name “California Democratic Alliance,” the slate mailer organization will be sending a mailer that *by indicia* appears to represent the Democratic Party. As such, the mailer must include the party designation of each of the Republican candidates endorsed in the mailer.